THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.25308 of 2005

Dated 29th November 2005

Between:

Sk.Shameer

…Petitioner

and

The APSRTC rep by its Regional Manager,

Nellore and another

…Respondents

O R D E R:

The petitioner is employed as Driver in APSRTC. He was issued a Charge Sheet, dated 25.04.1997, on the allegation that he caused an accident to the bus on 12.04.1997, while conducting the bus, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation to the same. On a consideration of the same, the respondent passed an order, dated 27.06.1997, imposing the penalty of deferment of annual increment, for a period of two years, with cumulative effect. Aggrieved thereby, the petitioner preferred an appeal before the appellate authority and that the same was rejected. Hence, this writ petition.

The only point urged by the learned counsel for the petitioner is that the respondent imposed the penalty of deferment of annual increment, for a period of two years, with cumulative effect, without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB,*** and submits that deferment of increment is a major penalty, and it cannot be imposed, except by conducting departmental enquiry.

Learned Standing Counsel for the respondent, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the respondent imposed the penalty of deferment of annual increment, for a period of two years, with cumulative effect, on the basis of the charges levelled against him. Though the charge sheet was issued to the petitioner, before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that deferment of increments, with cumulative effect, is a major penalty, and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the respondent to pass fresh orders. To avoid further delay and complication in the mater, this Court is of the view that the impugned order can be treated, as the one for deferment of annual increment, without cumulative effect.

Hence, the writ petition is partly allowed, directing that the order, dated 27.06.1997, passed by the respondent, shall be treated as the one for deferment of annual increment, for a period of two years, without cumulative effect, and that the petitioner shall not be entitled for any monetary benefits, up to the date of this order. There shall be no order as to costs.

22nd November 2005

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